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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

William F. Caton
Acting Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: CC Docket No. 98-147./Reply Comments Regarding Verizon's Request that the Commission Clarify its Rules Concerning Collocation.

Dear Mr. Caton:

By this letter, WorldCom responds to comments filed by several parties on March 25, 2002 regarding Verizon Communication, Inc.'s request that the Federal Communications Commission clarify its collocation rules to require collocators to terminate their facilities on a Point of Termination bay ("POT bay"). In its initial comments, WorldCom asked the Commission to reject Verizon's request because it is inconsistent with the Commission's rules. Similar to Sprint Corporation, WorldCom explained that the option to use a POT bay lies with the collocating carrier.

Verizon stands by its position that it can require the use of a POT bay under the Commission's Rules. Conversely, AT&T, Sprint and ASCENT join WorldCom and disagree, citing the Commission's rule that specifically states that an ILEC may not require competitors to use intermediate interconnection arrangements.¹ As ASCENT points out, Verizon's own CLEC handbook states that a POT bay is "an intermediate distributing frame."² Despite Verizon's own documentation, it now asks the Commission to construe a POT bay as a "direct connection" to its network.³

Even more troubling is Verizon's mischaracterization of a New York Public Service Commission order that addresses the use of POT bays. Verizon states that New York approved the requirement of POT bays and rejected arguments that POT bays are intermediate points of interconnection.⁴ What Verizon fails to note is that the New York Commission specifically limited the use of POT bays to SCOPE (Secured Collocation Open Physical Environment) arrangements. In fact, the New York Commission stated that if a CLEC did not want to use a

¹ 47 C.F. R. § 51.323 (k) (2).

² Letter from Charles C. Hunter, General Counsel of Association of Communications Enterprises, to Michelle M. Carey, Chief, Competition Policy Division, CC Docket No. 98-147, dated March 25, 2002, at p. 2.

³ Comments of Verizon, CC Docket No. 98-147, dated March 25, 2002, at p. 1.

⁴ Verizon Comments at p. 4.

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POT bay, it could "choose a cageless or physical collocation arrangement."⁵ Clearly, Verizon mischaracterized New York's limited approval of POT bays.

Moreover, Qwest's comments underscore the need for the Commission to deny Verizon's request. Specifically, Qwest points out that Verizon's clarification request addresses not only ILEC to CLEC connections but also connections between two competitive carriers (i.e., CLEC to CLEC interconnections).⁶ As Qwest points out, there is nothing in the Commission's rules to suggest that such a practice of requiring the use of POT bays is permissible.

Verizon has not met its burden of proof to demonstrate why the Commission's rules should be changed. Verizon provides no compelling basis why it should be allowed to require the use of POT bays and has not shown any technical reason why POT bays must be employed. As a result, the Commission should clarify that the ILEC practice of requiring the use of POT bays is inconsistent with its rules.

Respectfully submitted,



Kimberly Scardino
Dennis Guard
WorldCom, Inc.
1133 Nineteenth Street, N.W.
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(202) 736-6478

Enclosure

⁵ Order Directing Tariff Revisions, New York Public Service Commission, Case No. 99-C-0715 and 95-C-0657 (August 31, 1999) at p. 13, attached hereto.

⁶ Comments of Qwest Services Corporation, CC Docket No. 98-147, dated March 25, 2002.

Certificate of Service

I, Lonzena Rogers, do hereby certify, that on this second day of April 2002, I have filed electronically with the Secretary's Office, WorldCom, Inc.'s Reply Comments in the matter of CC Docket No. 98-147 and additional copies to be delivered by United States Postal Service first class mail, hand delivery, and facsimile a true and correct copy of on the following:

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_____/s/_____
Lonzena Rogers

* Denotes Hand Delivery
+ Denotes Facsimile

ATTACHMENT

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on August 18, 1999

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman
Thomas J. Dunleavy
James D. Bennett
Leonard A. Weiss
Neal N. Galvin

CASE 99-C-0715 - Ordinary Tariff Filing of New York Telephone Company to Provide for the introduction of Cageless Collocation Open Environment (CCOE); rates and regulations for Adjacent Structures; and, clarifications and modifications to existing collocation offerings.

CASE 95-C-0657 - Joint Complaint of AT&T Communications of New York, Inc., MCI Telecommunications Corporation, WorldCom, Inc. d/b/a LDDS WorldCom and the Empire Association of Long Distance Telephone Companies, Inc. Against New York Telephone Company Concerning Wholesale Provisioning of Local Exchange Service by New York Telephone Company and Sections of New York Telephone's Tariff No. 900.

ORDER DIRECTING TARIFF REVISIONS

(Issued and Effective August 31, 1999)

BY THE COMMISSION:

INTRODUCTION

On May 21, 1999, New York Telephone Company d/b/a Bell Atlantic-New York (BA-NY or the company) filed tariff revisions to PSC No. 914 in response to the March 31, 1999, "First Report and Order" issued In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, FCC 99-48 (the FCC Order) released by the Federal Communications Commission (FCC). The FCC Order imposed further national collocation rules that apply to all telecommunications services, including advanced

services and traditional voice services. The revisions introduced Cageless Collocation Open Environment (CCOE); rates and regulations for adjacent structures; and, clarified and modified existing collocation offerings. On June 28, 1999, the Commission issued an order^{1/} that approved the filing and requested comments from interested parties on whether the tariff comports with the FCC Order.

Comments were received from ACI Corporation (ACI), AT&T Communications Company of New York, Inc. (AT&T), Choice One Communications, Inc. (Choice One), Covad Communications Company (Covad), Network Access Solutions Corporation (Network Access), RCN Telecom Services of New York, Inc. (RCN) and Sprint Communications Company L.P. (Sprint), as well as the reply comments of BA-NY. The comments are discussed below.

Although the June 29, 1999 tariff filing substantially complies with the FCC Order, BA-NY will be directed to file a revised tariff to comport with the determinations hereinafter set forth.

BACKGROUND

The intent of the March 31, 1999, FCC Order was to promote innovation and investment by all participants in the telecommunications marketplace and to stimulate competition in the advanced services market.^{2/} To accomplish this, the FCC Order established additional requirements on the incumbent local exchange carriers (ILECs) for allowing interconnection and access to unbundled network elements and set standards for physical and virtual collocation. The FCC Order required that ILECs offer three additional forms of collocation: shared, cageless and adjacent. In addition, ILECs are to post information on the Internet when a central office is full; allow Competitive Local Exchange Carriers (CLECs) tours of

^{1/} Case Nos. 99-C-0715 and 95-C-0657, "Order Approving Tariff Filing on a Permanent Basis and Requesting Comments" (issued June 28, 1999).

^{2/} FCC Order, && 1 and 6.

central offices where they are denied space; not impose more stringent security on the CLECs than the company imposes on itself; remove obsolete equipment; and, establish procedures to use when an ILEC objects to the use of particular CLEC equipment.

BA-NY's tariff revisions, effective June 29, 1999, provided for: introduction of Cageless Collocation Open Environment (CCOE); introduction of rates and regulations for Adjacent Structures; clarifications and modifications to existing collocation offerings pursuant to the FCC Order, including the introduction of a Site Survey/Report Fee; and, minor textual and CLEC point of contact changes. In addition, approval was given for withdrawal of the company's Collocation Line of Sight Escort (CLOSE) service, because it no longer complied with the FCC Order and was being replaced by a cageless collocation offering.

COMMENTS

Space Restriction

BA-NY's tariff requires a CLEC to place its equipment in approved and designated conditioned space which is in a separate lineup, typically 10 feet from working BA-NY equipment, and not in space reserved by BA-NY.

AT&T, Choice One and RCN believe that the imposition of the 10 foot rule and separate lineup limits the amount of space available for cageless collocation, increases the cost and could force CLECs to collocate in a separate room. Rather, the commentators observe, if security were the driving force behind these requirements, cameras, monitoring and training would be sufficient forms of security.

BA-NY claims that the 10 foot separation is simply a guideline to protect its equipment and to provide a safe working environment for both BA-NY and the CLECs; it is not unused space. If a central office is near exhaustion, the company recognizes that it may be necessary to reduce the

amount of separation space. If space in a particular central office is exhausted, the CLEC may complain about the separation space during the exemption process. BA-NY reaffirms that the FCC Order states that it may take reasonable steps to protect its own equipment.

BA-NY claims that requiring CLEC equipment be placed in a separate lineup is consistent with the FCC Order. BA-NY contends that having CLEC equipment in the same lineup, would make it impossible for the company to secure its network and would undermine the protections it now employs for its own equipment. These protections include "safe time" procedures that limit non-critical access by its own employees to central office equipment that is in close proximity to operational equipment. If the separate lineup requirement is eliminated, CLECs could be working in close proximity to BA-NY's operational equipment. Although the FCC Order permits BA-NY to enclose its equipment in a cage, BA-NY maintains that if separate lineups are not allowed, it would not be able to enclose its equipment.

DISCUSSION

The FCC Order amended the Code of Federal Regulations to read, in part, "Incumbent LECs must allow competitors to collocate in any unused space in the incumbent LEC's premises..."^{1/} Cageless collocation is intended to provide relief for those CLECs that want to collocate in a particular office where physical collocation space may be exhausted. By imposing a 10 foot space requirement, the company effectively requires approximately 400 square feet of free space around its equipment in order to have cageless collocation. This clearly would be a prohibitive burden in those offices where space is already at a premium. The FCC Order does allow ILECs to establish reasonable security measures to protect their networks and equipment from harm,

^{1/} 47 C.F.R. 51.323(k)(2).

which may include enclosing their own equipment in cages. Other examples of security mentioned in the FCC Order include: security cameras, monitoring systems or badges worn by CLEC employees with computerized monitoring systems. The costs for these devices may be recovered from the collocating carriers.

These forms of security, rather than the 10 foot space requirement or separate lineups, would still provide the necessary security without the possibility of exhausting limited space, especially in central offices that are at, or near, exhaustion. Therefore, the 10 foot space requirement and separate lineup limitations must be removed from the tariff.

Tours by CLECs and Confidentiality Agreements

AT&T, Choice One and RCN believe that if BA-NY wants an exemption for physical collocation for a particular central office, all CLECs should have a right to tour the central office before the exemption is granted. Sprint requests that when a CLEC is denied space and is required to be given a tour by BA-NY, BA-NY should also provide floor plans of the central office within five days of denial so that the CLEC can ascertain if space is not available and can explore other possibilities.

Choice One, RCN and Sprint maintain that the FCC Order does not require the signing of confidentiality agreements. They claim that such agreements burden CLECs, and they should not be considered a condition for access. Choice One and RCN state that the requirement should be rejected until parties have an opportunity to evaluate and comment upon the actual agreement.

BA-NY states that its tariff is consistent with the FCC Order in that BA-NY will provide a CLEC with a central office tour within 10 days of denying a request for physical collocation from that CLEC. It will open tours to all interested CLECs provided such requests are coordinated by

Commission staff. If a central office has been declared space exempt, there is no further need for CLEC tours. BA-NY will inform the Commission of any affecting space changes and will provide a tour to the Commission upon request. If a CLEC wants to view floor plans of an office, such plans will be provided to it upon request at the time of the tour.

BA-NY further points out that the confidentiality requirement is reasonable and has been in place for years. When vendors enter into contracts with BA-NY, they must either sign a confidentiality agreement or one is included in the contract they have with BA-NY.

DISCUSSION

If a CLEC has been denied physical collocation space, that CLEC should be permitted to tour the central office in question. Because BA-NY is willing to provide tours to all interested CLECs, if the requests are coordinated by the Commission, that offer will be accepted.

Confidentiality agreements should only be required if such agreements are required from other non-BA-NY companies or vendors that have access to BA-NY's premises. Because BA-NY does require such agreements from its vendors, this is not an unreasonable requirement for CLECs. BA-NY's offer to provide a floor plan to CLECs at the time of the tour is a sufficient response to such demand.

Change from Virtual to Cageless

AT&T and Network Access believe that BA-NY's tariff should permit a CLEC that now has virtual collocation to switch to cageless collocation. AT&T believes this should be a seamless operation once the 10 foot buffer requirement is eliminated. Network Access sees no reason for the filing of an application to change from virtual to cageless or to pay \$5,000 in application and engineering fees.

BA-NY believes that the request to change virtual collocation to a cageless arrangement with no additional charges should be rejected. Existing virtual arrangements are placed in the same lineup as the company's equipment and sometimes throughout various locations in a central office. If a CLEC wants to convert its existing virtual arrangement into a cageless arrangement, the equipment would have to be moved so that it is not in a BA-NY lineup. Costs incurred for such a relocation, such as, costs to reconstruct the cables and power feeds, should be incurred by the CLECs.

DISCUSSION

The transfer from virtual to cageless will be permitted as long as the request is in writing (an expedited application would be acceptable) and any reasonable costs associated with the changeover are recovered from the CLEC. If these virtual collocation racks are interspersed among BA-NY racks and there are security concerns, additional security measures such as cameras, monitors or badges associated with monitoring equipment may be used. Spending time and effort to move a virtual arrangement from one area of a central office to another would be an unnecessary and time-consuming burden.

Cageless Security Rate and Non-Recurring Costs

ACI believes certain collocation rates should be set on a temporary basis, because they will be re-examined in Phase 4 of the Unbundled Network Elements (UNE) Proceeding (Elements 99 Proceeding). Choice One and RCN state that BA-NY's plan to submit a Cageless Security Rate at a later date is in violation of the FCC Order. Covad says that the FCC Order allowed the security card charge but that any additional charges would be unreasonable and disallowed by the FCC. Network Access believes that allowing unreasonable security will drive up the overall cost for cageless collocation so that rates will be the same as for physical collocation.

Sprint believes that the fees for site surveys, reports, applications and engineering are costly, and that, based on the information it has received, no cost justification or regulatory support exists for these excessive charges.

BA-NY states that the collocation rates should not be criticized, as the majority of the rates have been litigated and approved by the Commission. Any remaining rates will be litigated in the Elements 99 Proceeding.

DISCUSSION

Most of the rates questioned by the commentators were approved in Phase 3 of the UNE proceeding in Cases 95-C-0657, 94-C-0095, 91-C-1174 and 96-C-0036. The parties have not provided a basis for modifying the charges, and re-examination is not warranted at this time. The Cageless Security Rate and associated cost justification are to be presented in the Elements 99 Proceeding. This fact, in itself, does not justify temporary rates. Finally, BA-NY's imposition of security arrangements must be reasonable and may be reviewed upon CLEC complaint, or Staff may institute a review upon its own initiative.

Reserved Space

AT&T believes that there should be a limit on the amount of time BA-NY may reserve space but did not provide a suggested time-frame. Covad believes that if BA-NY has not used reserved space within a six-month period such space should be relinquished for CLECs to use for collocation.

According to BA-NY, space is reserved to accommodate three years growth. Prohibiting the company from reserving space could jeopardize service to end users. The company is also required to provide service upon reasonable request. To meet this obligation, BA-NY must plan expansions to meet expected growth several years in advance. The company has offered that if it denies collocation in a particular central

office, it will explain its future growth plans for that office during the exemption process, if requested by the Commission.

DISCUSSION

Currently, when BA-NY submits a construction budget, it forecasts when it estimates certain construction projects will be completed. These time frames have been acceptable in the past and appear to be reasonable for the future. BA-NY's proposal to supply future growth plans to the Commission when requesting an exemption is also reasonable; these plans should be provided by the company when requesting an exemption.

Installation Intervals

ACI, Choice One, Covad, Network Access and Sprint all maintain that the installation intervals of 76 days for secured locations and 105 days for unsecured locations are too long. They believe that the interval should be less than that for physical collocation, which requires more provisioning than cageless collocation does. The various time intervals suggested ranged from 30 days to 60 days, citing other states' experiences.

BA-NY states that the intervals for cageless collocation are reasonable and consistent with the Commission's prior rulings which approved a 76 day interval for physical collocation and a 105 day interval for virtual collocation. The amount of work to provide cageless collocation is essentially the same as for physical, that is, cabling, frame terminations and power feeds all have to be provided. The one difference is that a separate room does not have to be provisioned, but security measures may need to be implemented. In many respects, BA-NY states, installing security measures can be more time consuming than provisioning a separate room. According to BA-NY, the installation intervals for other ILECs are irrelevant, because New York

experiences a higher level of collocation demand than other regions.

DISCUSSION

The Commission has found reasonable the 76 business day interval for a physical collocation installation and 105 business days for the installation of virtual collocation.^{1/} No study has established the minimum time interval needed for the installation of cageless collocation. While there are similarities between virtual and cageless collocation -- both would be physically located in the same area of a central office -- the equipment on a virtual collocation rack is owned and maintained by BA-NY. In addition, this 105 day interval includes the testing of lines before actual start-up of the virtual collocation arrangement. The equipment associated with cageless collocation would be installed, owned and maintained by a CLEC. Therefore, BA-NY would require less time for the establishment of cageless collocation. The installation interval for cageless collocation will be the shorter of the two established intervals, 76 business days. BA-NY shall modify its tariff accordingly.

Escort Service, Security, and Security Training

ACI, Choice One, Covad and RCN all believe that the tariff requirements that an escort be used when other security measures are not in place or when a CLEC representative needs access to a manhole or vault goes beyond what is required in the FCC Order. ACI also comments, that while there will be no charge for an escort, the wait for an escort does cost ACI time and money, as it could delay clearing a repair problem and cause a financial burden, because ACI pays customers when they are out of service. Covad believes that BA-NY should not be able to restrict the availability of cageless collocation

^{1/} Case Nos. 95-C-0657, 94-C-0095, 91-C-1174 and 96-C-0036, "Order Directing Tariff Changes for Non-Price Terms and

based on security concerns, if a form of security is already in place in a particular central office. In addition, ACI believes that the FCC Order prohibits BA-NY from imposing any kind of training requirement on a CLEC as a security measure.

Several CLECs criticize the requirement that BA-NY be notified prior to dispatching a CLEC employee to a BA-NY central office. BA-NY states that the CLEC does have to call ahead but does not have to wait for the BA-NY employee to arrive before entering the central office. The company employee would be there to accompany and observe the CLEC technician. The company also claims it needs this advance warning so it knows who is in its central office. Thus, BA-NY maintains, this is a notification provision, not an escort provision. BA-NY claims that its security concerns are not just theoretical, as several security issues have arisen concerning physical collocation.

The CLECs also object to escorted access to a cageless area before security measures are fully installed. BA-NY contends that this escorted access will be free and will be done so CLECs can start installing their equipment (assuming the other network components are provisioned), even though full security measures are not in place.

Additionally, CLECs object to the escort requirement for areas outside a collocation area, such as a manhole or vault. BA-NY believes that the FCC Order allows CLECs to access their equipment 24 hours/day, seven days/week without a security escort, but the Order does not prohibit escorts to areas outside the collocation arrangement, such as a manhole or vault. BA-NY states that if it had to install security measures throughout an entire central office, it could be cost prohibitive.

BA-NY believes, that if it determines that one security measure fails to protect its network adequately, it may then install additional security measures. It believes that the security measures set forth in the FCC Order are not mutually exclusive. Also, the security training requirements that BA-NY is imposing upon the CLECs are the same security training requirements that it imposes upon itself. In addition, the CLECs have the option of providing their own training, if it is approved by BA-NY.

DISCUSSION

The determining factors here are whether BA-NY also requires vendors to be escorted into the company's locations and whether the vendors have to undergo security training before entering BA-NY's facilities. According to information provided by the company, in the first instance, vendors are escorted to the area within which they are to work, but an escort does not stay with them. For subsequent visits, vendors sign in to the floor they will be working on, but no escort accompanies them. These vendors do wear identification badges. On that basis, escorts may be required for initial CLEC visits, but not on subsequent visits, unless no form of security is reasonably available in the central office.

Notification to BA-NY that a CLEC employee has been dispatched to a BA-NY central office is reasonable. However, the CLEC technician may not be required to await the arrival of a BA-NY employee before entering the central office.

Security training will be offered by BA-NY or the company will advise CLECs what type of training should be provided. This is a reasonable requirement, as safety and security is a concern, and security training will assist CLEC personnel to be cognizant of proper safety procedures while in a BA-NY central office.

SCOPE Offering

ACI believes that BA-NY's offering Secured Collocation Open Physical Environment (SCOPE) does not comport with the FCC Order on physical collocation in that it requires a Shared Point of Termination (SPOT) Bay, which it claims needlessly adds to a CLEC's expenses. To ACI, a SPOT Bay is merely an intermediate point of interconnection between BA-NY and the CLEC in violation of the FCC Order. ACI believes that a direct connection to BA-NY's Main Distribution Frame (MDF) is technically feasible, rendering a SPOT Bay unnecessary.

BA-NY maintains that its SCOPE offering is entirely proper as is the requirement of SPOT or Point of Termination (POT) Bay. The company believes these are essential demarcation points between BA-NY's and the CLEC's equipment. Without these demarcation points, BA-NY and the CLEC will be unable to determine whether a problem lies on the BA-NY side or the CLEC side. SCOPE is one of several different types of collocation. If a CLEC wants to avoid a SPOT or POT Bay, BA-NY says it can utilize cageless collocation.

DISCUSSION

SCOPE allows CLECs to collocate in a secure, separate area of the central office and is offered as an option to physical, virtual, cageless or shared collocation arrangements. In provisioning the SCOPE area, BA-NY installs a SPOT bay to allow cabling from the MDF to terminate at a single location where BA-NY will install individual terminal blocks. This is a reasonable arrangement allowing the points of demarcation for the CLECs to be in one area and facilitating access by BA-NY for installation and test purposes. If a CLEC does not want to use a SPOT bay, a CLEC may choose a cageless or physical collocation arrangement and have its own point of termination within the CLEC equipment bay.

Technical Standards and Equipment Issues

According to Covad, the FCC states that if equipment does not satisfy NEBS standards but is used by ILECs, CLECs may use the same equipment as the ILEC. In addition, CLECs should have a right to a list of the equipment that ILECs have installed in their central offices. Finally, NEBS standards that relate to reliability may not be grounds to impose denial of collocation. Sprint states the tariff does not provide a notice interval for changes to the company's list of approved products. This lack of notification could put a CLEC in the position of installing equipment only to find that it must be removed, because it is not on a list of approved equipment. Sprint believes that BA-NY should provide 90 days notice when there are equipment changes.

Choice One and RCN believe that BA-NY should not be permitted to designate which cageless collocation space a CLEC should occupy claiming that the FCC Order permits CLECs to collocate in any unused space. Instead, Choice One and RCN prefer that the parties negotiate which space is to be used for cageless collocation and that, if necessary, the Commission be ready to mediate and arbitrate any unresolved disputes.

BA-NY states that it generally requires CLEC equipment to meet NEBS Level 1 safety standards, as well as a few additional safety requirements in NEBS - RNSA-NEB-95-0003. The CLECs may also use the same equipment that BA-NY has used in its central offices for a period of five years or more. The company does not require a CLEC to meet reliability or performance standards. BA-NY is only required to provide a list of equipment after it rejects a CLEC's request to collocate equipment that does not meet NEBS safety requirements in a particular central office. If, however, the equipment had been previously approved and now becomes non-compliant, the company will provide CLECs 90 days notice, unless the change is due to an emergency which renders notice

impossible.

BA-NY believes that it is the only party in the position to make efficient decisions regarding where to place collocators. Negotiating with each CLEC regarding the location of equipment would require a massive coordinated effort of each CLEC regarding the location of equipment and would lead to disagreements among the CLECs. The FCC Order requires that CLECs be given the space they need, not that they be permitted to choose their own space. In BA-NY's view, the CLECs have not demonstrated what benefit they would obtain by choosing their own space, and they would pay the same rate regardless of where they were located.

DISCUSSION

BA-NY's filing comports with the FCC Order regarding equipment requirements and the provision of a list of equipment to affected CLECs. Moreover, the company's offer to provide 90 days' notice of non-compliant equipment is reasonable, responds to Sprint's concern and should be implemented. BA-NY's position on the location of cageless collocation is also reasonable. If, however, disagreements arise regarding where a CLEC may establish cageless collocation, the CLEC and/or BA-NY may request the Commission to mediate or arbitrate the issue.

Miscellaneous Issues-Comments and Discussion

Commentors raised various issues relating to pre-wired frames, changes to procedures and rules, obsolete equipment, product changes, vendor approval and adjacent collocation.

Sprint states that the requirement that a bona fide request be made for the installation of a pre-wired frame only increases the interval for interconnection and collocation and is contrary to the policies and objectives of the FCC Order. BA-NY claims that, to date, no CLEC has requested or expressed

an interest to install pre-wired frames. BA-NY believes that a bona fide request process is appropriate at this time. With the information presented, it is unclear that the requirement of a bona fide request before installing a pre-wired frame would increase the interval for interconnection and collocation and such requirement will not be disturbed at this time.

ACI objects to BA-NY's ability to make changes to its procedures and rules regarding collocation arrangements without consultation with the CLECs or review by the Commission. BA-NY states that it is in the best position to know when changes need to be made to protect its own facilities and equipment. The company further states that after a CLEC receives notice of a change, it can voice its dissatisfaction with the company or file a complaint with the Commission. The tariff language that is being questioned by ACI relates to rules of conduct that apply to telephone company personnel, vendors and CLECs. Written notice will be provided to the CLECs of such changes. If CLECs are dissatisfied, they can, as BA-NY stated, file a complaint with the Commission.

Covad believes that BA-NY should have a policy of removing obsolete equipment before a CLEC or the Commission institutes a request for its removal, so there is more room for cageless collocation. BA-NY has stated it will remove obsolete equipment when no space is available to accommodate a CLEC's request for collocation. BA-NY claims to remove obsolete equipment when conditions warrant. Removal of obsolete equipment when there are no space concerns in a particular central office is unnecessary. But, to avoid unnecessary delay, the company should initiate equipment removal when it becomes reasonably clear that a central office is nearing the point of space exhaustion.

Covad states that because BA-NY requires use of approved vendors, there should be a process in place to obtain

vendor approval. This is especially important to Covad, as the vendors it uses are not currently approved. BA-NY states that it already has a vendor approval process in place, with details of the process available upon request. In addition, the list of approved vendors currently appears in the CLEC handbook which is on the company's web page. According to the company, some of the CLECs have recommended additional vendors. Such vendors, if approved, should be added to the approved list. Details of the approval process should be added to the web site, so that information on the process is readily accessible to all interested parties.

ACI believes that BA-NY is in violation of the FCC Order when it allows adjacent collocation only when both physical and virtual collocation space are exhausted. According to ACI, adjacent collocation will never be available, because BA-NY has only rarely said that virtual collocation is unavailable. BA-NY states that the FCC Order only requires that adjacent collocation be available when no space is available in a central office. The FCC Order requires that an ILEC permit adjacent collocation when space is legitimately exhausted in an ILEC premise. Therefore, the company is correct.

CONCLUSION

BA-NY will be directed to refile its collocation tariffs, the details of which are discussed above and modified as described therein. The revised tariff filing must be made within 10 days of the issuance of this order. Newspaper publication under Section 92(2) of the Public Service Law is waived.

The Commission orders:

1. Within ten days of the issuance of this order, Bell Atlantic-New York shall file revised tariff schedules for PSC No. 914, so as to comply with the determinations set forth in this order.

CASES 99-C-0715 and 95-C-0657

2. The requirement of Section 92(2) of the Public Service Law as to newspaper publication is waived.

3. These proceedings are continued.

By the Commission,

(SIGNED)

DEBRA RENNER
Acting Secretary